

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA

v.

SUBHASH KONGASSERY,

Defendant.

Case No. 1:23-MJ-275

AFFIDAVIT IN SUPPORT OF A CRIMINAL COMPLAINT AND ARREST WARRANT

I, Timothy K. Myers, being duly sworn, depose and state:

1. I am currently employed as a Special Agent of the Federal Bureau of Investigation (FBI) and have been so employed since November 2, 2014. Since June 2023, I had been assigned to the Washington Field Office (WFO) of the FBI, where I investigate violations of federal law that occur within the airport environment and on-board aircraft. I am familiar with the relevant federal statutes, including under Titles 18 and 49 of the United States Code, and have conducted numerous investigations into offenses that have occurred upon aircraft.

2. This statement of probable cause is in support of a complaint and arrest warrant against Subhash KONGASSERY for a violation of Title 18, United States Code, Section 2244(b) and 49 U.S.C., Section 46506(1) (Abusive Sexual Contact on an Aircraft) and 18 U.S.C., Section 113(a)(5) and 49 U.S.C., Section 46506(1) (Simple Assault on an Aircraft).

3. The facts and information contained in this affidavit are based upon my training and experience, personal knowledge, and observations during this investigation, as well as the observations of other agents involved in this investigation. This affidavit contains information

necessary to support probable cause, but it is not intended to include every fact and matter observed by me or known to the United States.

SUMMARY OF FACTS TO SUPPORT PROBABLE CAUSE

4. The FBI was contacted by Metropolitan Washington Airports Authority (MWAA) Police Department (PD) in the early morning of October 22, 2023, regarding a sexual assault on board Air India flight 103 (AI103). The flight originated from India and lasted about 15 hours when it landed at Dulles International Airport (IAD). The incidents occurred several hours into the flight.

5. Victim 1 (V-1)¹ was a passenger on AI103 from Delhi, India to Dulles International Airport (IAD). According to an interview with V-1, Subhash KONGASSERY was assigned the aisle seat to V-1's left. V-1 was assigned a middle seat and V-1's husband was assigned the window seat. During the flight, V-1 felt KONGASSERY'S hand touch her inner left thigh that was under a blanket. At a second point, V-1 felt KONGASSERY massage her leg above her clothing with his palm facing down. At another point during the flight, when V-1 had her head down on the tray table, V-1 felt KONGASSERY'S hand touch and massage her left breast above her clothing to include her nipple. V-1 went to the bathroom and reported the incidents to the flight attendant. Additionally, V-1 had communicated to her husband that KONGASSERY had touched her. The flight attendant moved V-1 to another seat. Prior to the flight landing and de-boarding, V-1 returned to her original seat and reported the incidents again. She returned to her original seat to ensure she could report KONGASSERY after the flight landed. V-1 never gave permission to KONGASSERY to touch her breast or inner thigh.

7. KONGASSERY was interviewed at IAD by Special Agents of the Federal Bureau of Investigation. During the interview, KONGASSERY first stated it was an accident that he

¹ V-1 is an adult female whose name is known to me.

touched her inner thigh with the back of his hand, but later admitted to knowingly having his hand touch V-1's breast for approximately 30 to 45 seconds. He further stated that he had not consumed any alcohol or taken any medication. He stated he slept for about 3 hours on the flight.

8. KONGASSERY voluntarily wrote an apology note to V-1 where he stated he apologized for touching V-1's breast and thigh with the back of his hand and "failed to withdraw" his hand for "30-40 seconds."

CONCLUSION

9. Based upon the foregoing, I submit there is probable cause to believe that on or about October 22, 2023, in the Eastern District of Virginia, the defendant, KONGASSERY, on an aircraft in the special aircraft jurisdiction of the United States, namely Flight AI103 flying from Delhi, India to IAD, did commit abusive sexual contact by engaging in sexual contact with another person without that other person's consent, in violation of Title 18 U.S.C., Section 2244(b) and simple assault under Title 18 U.S.C. §113(a)(5).

Respectfully submitted,

Timothy K. Myers

Timothy K. Myers
Special Agent
FBI

Respectfully submitted and attested to in
accordance with the requirements of Fed.
R. Crim. P. 4.1 by telephone on Dec. 4,
2023.

William E. Fitzpatrick

The Honorable William E. Fitzpatrick
United States Magistrate Judge
Alexandria, Virginia